

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BREAKING GLASS PICTURES,

Plaintiff,

v.

Civil No. 13-10735-PBS

SWARM SHARING HASH FILE SHA1:
973F491D02C1E0220DBC534D8F8EDC15FC53FAEF;
and DOES 1 through 91,

Defendants.

REPORT AND RECOMMENDATION ON PLAINTIFF'S
EMERGENCY EX PARTE MOTION FOR EARLY DISCOVERY

May 1, 2013

SOROKIN, C.M.J.

Plaintiff Breaking Glass Pictures has filed an ex parte motion for early discovery for the sole purpose of identifying the ninety-one "Doe" defendants listed in the complaint. Specifically, the plaintiff seeks authority to: (i) subpoena subscriber information from seven Internet Service Providers ("ISPs"); and (ii) serve interrogatories and depositions notices on the individuals identified by the ISPs "to determine whether or not the actual Internet subscriber is a proper defendant in this action." Doc. No. 5 at 1. At a hearing on the plaintiff's motion, the Court questioned whether the ninety-one Does are properly joined as defendants in this action. Upon consideration of the plaintiff's motion, along with its oral argument and written submissions regarding the issue of joinder, I recommend: (i) the plaintiff's claims against the Doe defendants be SEVERED; (ii) the claims against Does 2 through 91 be DISMISSED without prejudice; and (iii) the plaintiff's ex parte discovery motion be ALLOWED in part and DENIED in part.

*I admit the report and
recommendation.*

5/29/13